

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

MARTY SCOTT FITZGERALD,

Plaintiff,

v.

LISA WALSH et al.,

Defendants.

Case No. 2:19-cv-01818-RFB-NJK

ORDER

This action began with a *pro se* civil rights complaint filed pursuant to 42 U.S.C. § 1983 by a state prisoner. Plaintiff has submitted two applications to proceed *in forma pauperis*. Docket Nos. 1, 37. Based on the financial information provided in both applications, the Court finds that Plaintiff is unable to prepay the full filing fee in this matter.

The Court reopened this case on February 3, 2022 and permitted the claims to proceed on the screening order entered on November 30, 2020. Docket Nos. 5, 32. The Court imposed a 90-day stay and entered a subsequent order in which the parties were assigned to mediation by a court-appointed mediator. Docket Nos. 32, 35. The Office of the Attorney General has filed a status report indicating that settlement has not been reached and informing the Court of its intent to proceed with this action. Docket No. 39.

For the foregoing reasons, **IT IS ORDERED** that:

1. Plaintiff's applications to proceed *in forma pauperis* are **GRANTED**. Docket Nos. 1, 37. Plaintiff is not required to pay an initial installment of the filing fee. In the event that this action is dismissed, the full filing fee must still be paid pursuant to 28 U.S.C. § 1915(b)(2).

2. The movant herein is permitted to maintain this action to conclusion without the necessity of prepayment of any additional fees or costs or the giving of security therefor.

3. Pursuant to 28 U.S.C. § 1915, as amended by the Prison Litigation Reform Act, the Nevada Department of Corrections will forward payments from the account of **Marty Scott**

1 **Fitzgerald, #73049** to the Clerk of the United States District Court, District of Nevada, 20% of  
2 the preceding month's deposits (in months that the account exceeds \$10.00) until the full \$350  
3 filing fee has been paid for this action. The Clerk of the Court will send a copy of this order to the  
4 Finance Division of the Clerk's Office. The Clerk will send a copy of this order to the attention  
5 of **Chief of Inmate Services for the Nevada Department of Corrections**, P.O. Box 7011, Carson  
6 City, NV 89702.

7 4. The Clerk of the Court shall electronically **SERVE** a copy of this order and a copy  
8 of Plaintiff's complaint, Docket No. 6, on the Office of the Attorney General of the State of Nevada  
9 by adding the Attorney General of the State of Nevada to the docket sheet. This does not indicate  
10 acceptance of service.

11 5. Service must be perfected no later than August 2, 2022, pursuant to Fed. R. Civ. P.  
12 4(m).

13 6. Subject to the findings of the screening order, Docket No. 5, no later than May 25,  
14 2022, the Attorney General's Office shall file a notice advising the Court and Plaintiff of: (a) the  
15 names of the defendants for whom it accepts service; (b) the names of the defendants for whom it  
16 does not accept service, and (c) the names of the defendants for whom it is filing the last-known-  
17 address information under seal. As to any of the named defendants for whom the Attorney  
18 General's Office cannot accept service, the Office shall file, under seal, but shall not serve the  
19 inmate Plaintiff the last known address(es) of those defendant(s) for whom it has such information.  
20 If the last known address of the defendant(s) is a post office box, the Attorney General's Office  
21 shall attempt to obtain and provide the last known physical address(es).

22 7. If service cannot be accepted for any of the named defendant(s), Plaintiff shall file  
23 a motion identifying the unserved defendant(s), requesting issuance of a summons, and specifying  
24 a full name and address for the defendant(s). For the defendant(s) as to which the Attorney General  
25 has not provided last-known-address information, Plaintiff shall provide the full name and address  
26 for the defendant(s).

